MOTION FILED
NOV 29 1983

IN THE
SUPREME COURT OF THE UNITED STATES

FRANK B. JAMES ET AL Petitioners	)	
v.	)	No. 83-623
JAMES G. WATT ET AL Respondents	)	
MASHPEE TRIBE ET AL Petitioners	)	
v.	)	No. 83-624
JAMES G. WATT ET AL Respondents	)	

PETITIONERS' MOTION FOR DEFERRED CONSIDERATION

Petitioners move the Court defer consideration of captioned cases pending filing of petitions in Indian land claims from the States of New York and South Carolina, and state the following reasons therefor:

1. In JAMES v. WATT, No. 83-623, the First Circuit referred to this Court's ONEIDA INDIAN NATION v. COUNTY OF ONEIDA, 414 US 661 (1974) holding that Indian title may be extinguished only with federal consent as "dicta" and not in keeping with "modern Indian law". See JAMES v. WATT, 716 F2d 71, 73 (1st Cir 1983). The First Circuit went on to hold Massachusetts statutes permitting conveyances of Indian land without federal consent valid;
2. In MASHPEE TRIBE v. WATT, No. 83-624, the First Circuit held an earlier case explicitly dismissed at the "threshold" for lack of "standing" was "on the merits" and res judicata. See MASHPEE TRIBE v. WATT, 707 F2d 23 (1st Cir 1983);
3. In two recent cases, ONEIDA INDIAN NATION v. COUNTY OF ONEIDA, Nos. 82-7436, 7486, 7526 (2nd Cir Sept. 29, 1983) and CATAWBA INDIAN NATION v. SOUTH CAROLINA, No. 82-1671 (4th Cir Oct. 14, 1983), the Second and Fourth Circuits ruled in favor of the Indians in land claims similar to JAMES and MASHPEE TRIBE;
4. Instant petitioners anticipate the ONEIDA and CATAWBA defendants will file petitions for writs of certiorari shortly;
5. Thus, inasmuch as JAMES, MASHPEE TRIBE, ONEIDA and CATAWBA represent the bulk of the post-1789 eastern Indian land claims,* instant petitioners respectfully suggest the Court, in the interests

*See table attached hereto as "A"

of judicial economy, may want to consider all Indian land claims petitions together;

6. Furthermore, instant petitioners contend the First Circuit JAMES and MASHPEE TRIBE holdings directly conflict not only with the Second and Fourth Circuit ONEIDA and CATAWBA holdings, but also with other Second and Fourth Circuit cases and numerous Supreme Court cases. So it seems to petitioners the interests of justice as well as judicial economy will be served by considering the Massachusetts, New York and South Carolina Indian land claims at the same time.

Alternatively, because Nos. 83-623 and 624 both involve Indian claims to Massachusetts Indian lands and were filed together, petitioners request the Court consider these cases together.

Respectfully submitted,

28 November 1983

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"A"

EASTERN INDIAN LAND CLAIMS

Post-1789 Claims

Connecticut	
Mohegan Tribe	600-2500 acres
Schaghticoke Tribe	400
Massachusetts	
Wampanoag Nation* (Chappaquiddick, Christiantown, Gay Head, Herring Pond, Mashpee and Troy Tribes)	24,000
New York	
Oneida Nation*	300,000
Cayuga Nation	64,000
South Carolina	
Catawba Nation*	177,000

Pre-1789 Claims

New York	
Oneida Nation	6,000,000

*Attorneys St. Clair and van Gestel, who represent some of the defendants in the Mashpee and Gay Head Wampanoag cases (Nos. 83-623, 624), also represent some of the defendants in CATAWBA and ONEIDA.